

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DAVID ALLEN MORGAN,

Plaintiff,

V.

OFFICER DAVIS, et al.,

Defendants.

Case No. 6:24-cv-54-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff David Allen Morgan filed this pro se civil rights lawsuit pursuant to 42 U.S.C. § 1983 while he was a Texas Department of Criminal Justice Inmate. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Defendants Alsobrooke, Hillhouse, and Massey's motion for summary judgment based on Plaintiff's failure to exhaust administrative remedies. Docket No. 22. On July 2, 2024, Judge Love issued a Report recommending that the Court grant Defendants' motion for summary judgment and dismiss this case with prejudice. Docket No. 25. The Report noted that although Defendant Davis was not served and did not join the motion, the failure-to-exhaust defense inured to his benefit. *Lewis v. Lynn*, 236 F.3d 766, 768 (5th Cir. 2001). A copy of this Report was sent to Plaintiff at his last-known address but was returned as undeliverable due to

his release. Docket No. 26. Plaintiff has not filed objections or otherwise communicated with the Court—including to update his address.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 25) as the findings of this Court and **GRANTS** Defendants’ motion for summary judgment (Docket No. 22). It is therefore **ORDERED** that this case is **DISMISSED** with prejudice as to all Defendants for failure to exhaust administrative remedies.

So **ORDERED** and **SIGNED** this **5th** day of **August, 2024**.

A handwritten signature in black ink, appearing to read "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE